

[REDACTED] [REDACTED]
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[REDACTED]
[REDACTED]
JUL 13 1982

Dear Sir or Madam:

Your application for exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code has been given consideration.

The information submitted discloses that you were incorporated under the nonprofit laws of the State of [REDACTED] on [REDACTED].

Article [REDACTED] of your Articles of Incorporation provide that you are organized "exclusively for charitable purposes including providing assistance and distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954." Your activities consist of conducting bingo games once each week from 6:30 p.m. to 10:00 p.m. Income is received from the sale of game cards, and expenses include [REDACTED] Retail Sales Tax and distributions to exempt organizations.

Section 501(a) of the Internal Revenue Code of 1954 provides for the exemption of certain organizations described in subsection 501(c).

"(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It reads, in part, as follows:

"In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.—The term 'exempt purpose or purposes', as used in this section, means any purpose or purposes specified in Section 501(c)(3).—"

"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

In Better Business Bureau of Washington D.C., Inc. vs. United States, 326 U.S. 279 (1945), the Court held that for an organization to fall within a claimed exemption it must be devoted to an exempt purpose exclusively. The presence of a single, non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

In Help the Children, Inc. vs. Commissioner of Internal Revenue, 28 TC 1128 (1957), the Court held that an organization which conducted bingo games with the proceeds to charity is not entitled to exemption. The Court noted that the organization did not operate any charitable institutions, and its principal activity was conducting bingo games.

Internal Revenue Code Section 513(f) excepts bingo games from taxation as unrelated business for exempt organizations. However, House Report 95-1608 (1978-51 IRB 23) on Public Law 95-502 which added Code Section 513(f) provides, in part:

"Although the bill provides that, for political organizations and most tax-exempt organizations, the proceeds of certain bingo games are not generally subject to Federal income taxation, the committee does not intend that the carrying on of bingo games should be treated as an exempt function of a political organization or tax-exempt organization except to the extent it would be considered an exempt function under

present law. Also, the committee does not intend to revise those rules of present law which indicate that if conducting bingo is a primary activity of an organization, the organization may not qualify for tax-exemption..."

Based upon information submitted, it is clearly demonstrated that your primary purpose and activity is conducting bingo games. Accordingly, you are not operated exclusively for one or more exempt purposes. Therefore, we have concluded that you do not qualify as an organization described in Section 501(c)(3) of the Code.

You are required to file Federal income tax returns annually on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this proposed adverse determination letter, appeal to the Regional Office through this Key District Office. Your appeal should contain the information described under Regional Office Appeal in the enclosed Publication 892, and should be mailed to this office. The Regional Office will let you know what action they take, and will set a date and place for any conference to be held. If a written protest is not received within the above time period this determination letter will be final.

Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

"A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies.

This is a determination letter.

Sincerely yours,

Signed [REDACTED]

[REDACTED]
District Director

Enclosure
Publication 892